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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,971	12/31/2001	Deanna R. Kathumbi-Jackson	17,697	9577

23556 7590 09/09/2003

KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH, WI 54956

EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 09/09/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,971

Applicant(s)

KATHUMBI-JACKSON ET AL.

Examiner

Karin M. Reichle

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4-8</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Specification

Drawings

1. The drawings are objected to because where is F, see page 13, first full paragraph? A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Description

2. The abstract of the disclosure is objected to because the abstract is too short, i.e. the length should be between 50 and 150 words in length. Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities: on page 1, line 2, "claims priority from" should be --claims the benefit of--. On page 2, lines 12 and 14, in the paragraph bridging pages 14-15 and in the first full paragraph on each of pages 15-16, reference to the inventors should be avoided. The description should be limited to a factual description of the invention. On page 4, line 25, after "z-axis", --Z-Z-- should be inserted.

Appropriate correction is required.

4. The use of the trademark KOTEX(R)(page 10, lines 15 and 31 and page 11, line 15) has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

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Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Trademarks should be shown either in all capital letters or with a trademark symbol but not both.

Claim Objections

5. Claims 1-37 are objected to because of the following informalities: in claims 1, 9, 18 and 25, line 2, "the vestibule" should be --a vestibule--. Appropriate correction is required.

Claim Language Interpretation

6. It is noted that while "labial pad" is defined on page 4, lines 20-23 that the claims are drawn to an "absorbent article". "Vestibule" is defined as set forth on page 4, lines 23-29 and page 5, lines 3-5. "Disposition...vestibule" is defined as set forth on page 4, lines 29-30, and page 5, lines 9-14 and page 6, lines 1-5. The various directional terms used in the claims are defined as set forth on page 5, lines 15-30. "Effective surface area" is defined as set forth on page 15, lines 18-21 but is not used in the claims. Also "stay in place means" used in claims 25-37 do not invoke 35 USC 112, sixth paragraph, because such is not presented in proper means plus function format.

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Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Procter & Gamble, PCT '610.

The '610 device includes an absorbent article 44 having superabsorbent polymer, see page 11, line 29, a length, a width, an upper surface with a surface area, see page 10, third to last line-page 11, line 1, Figure 1 and page 7, first full paragraph, and definitions supra, i.e. the dimensions of the topsheet of the device, and thus the device, will also be those of the absorbent since the topsheet can be unitary therewith, the specific lengths, widths, and thus surface areas, as well as specific calipers or thicknesses, see paragraph bridging pages 7-8. The absorbent article appears to be configured for disposition within the vestibule as claimed in claims 1, 9, 18 and 25, see definitions supra and PG '610, i.e. definition of "absorbent interlabial structure" at page 6, first two full paragraphs and page 7, second full paragraph. In any case, with regard to the functions, properties and capabilities set forth in claims 1, 9, 18, and 25, i.e. "being configured...wearer", and "having...vestibule" or "having...means", see definitions above and note that the PG device includes the claimed structure. Therefore, there is sufficient factual basis for one to conclude that the functions, properties and capabilities of such claimed structure would also be inherent in the same structure of PG. See MPEP 2112.01. Note also page 18, fifth line from the bottom.

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Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (703) 308-2617.

The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.


Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR